

261159



Order 2003-12-7
UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 5th day of December, 2003

Served: December 5, 2003

In the Matter of

AEROLINEAS ARGENTINAS, S.A.

under Section 41310(c)(2) International Air Transportation
Fair Competitive Practices Act, as amended

Docket OST-2003-15092 - 23

ORDER

Background

By Order 2003-11-26, in the above-captioned docket, the Department required Aerolineas Argentinas, among other things, to remit into a U.S. escrow account, on a per-flight basis, the difference between what it actually pays for services at Buenos Aires Ezeiza airport and the higher amounts it would be paying if it were not benefiting from discriminatorily favorable treatment *vis-à-vis* U.S. carriers. Under the terms of the order, by December 5, 2003, Aerolineas Argentinas was to provide the Department evidence of the establishment of an Escrow Account, the retaining of an Escrow Agent, and an agreement among the carrier, the bank and the agent for Department approval.

Motion of Aerolineas Argentinas

On December 4, 2003, Aerolineas Argentinas filed a motion for a stay of all proceedings in this matter. It states that it is doing so "because of the recent decision issued by the Argentine Federal Court of Appeals Sala II, dated November 27, 2003, and served upon Aerolineas on December 3, 2003, a copy attached hereto."

Decision

The copy of the court decision relied upon by Aerolineas Argentinas in support of its motion was provided to us exclusively in Spanish. The parties to this proceeding should be accorded the opportunity to review a full English-language version of a court document that Aerolineas Argentinas itself regards as the basis for its motion before they would be required to submit comments. Furthermore, we ourselves would be unable to fully weigh the merits of Aerolineas Argentinas' arguments and any responses thereto, absent a complete translation into English of the material attached to the Motion. We, accordingly, look to Aerolineas Argentinas to provide

an English translation of the document attached to its Motion. If and when it does so, we will then establish procedures for responsive comments.

Our final order in this proceeding, Order 2003-11-26, required Aerolineas Argentinas to submit to the Department evidence that it had established an escrow account with a U.S. bank, that it had an escrow agent, and that it had an agreement among the bank, agent and carrier. This material was to have been submitted by December 5, 2003. In the circumstances presented, we will accord Aerolineas Argentinas one additional business day (i.e. until Monday, December 8, 2003), to submit these materials.

ACCORDINGLY.

1. We direct Aerolineas Argentinas to submit the documentation required by Order 2003-11-26 no later than Monday, December 8, 2003; and
2. We will serve this order on American Airlines, Inc.; Federal Express Corporation; United Air Lines, Inc.; United Parcel Service Co.; Aerolineas Argentinas, S.A.; Air Plus Argentina, S.A.; Southern Winds, S.A., the Air Transport Association; the U.S. Department of State (Office of Aviation Negotiations); the Assistant U.S. Trade Representative (South America), Office of the U.S. Trade Representative; the U.S. Department of Commerce (Office of Service Industries); and the Ambassador of Argentina in Washington, DC.

By:

MICHAEL W. REYNOLDS
Acting Assistant Secretary for
Aviation and International Affairs

(SEAL)

An electronic version of this order is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp